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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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U.S. DISTRICT COURT

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TEXAS-EASTERN

IN RE: CERTAIN ASSETS OF §
ALLEN PETTY, JR., A.K.A. AL PETTY §

NO. 6:02-CV-223 (TJW)

**ORDER CONVERTING TEMPORARY RESTRAINING ORDER
TO A PRELIMINARY INJUNCTION**

On April 17, 2002, this Court entered a preliminary injunction restraining certain assets of Al Petty. *In re: Certain Assets of Allen Petty, Jr., a.k.a. Al Petty*, No 6:02-CV-148 (E.D. Tex. April 17, 2002)(order converting temporary restraining order to a preliminary injunction). The Government now seeks to restrain additional assets of Petty allegedly connected to the Ponzi scheme described in detail in the Court's prior order. *Id.* at 3-8. The Court conducted an evidentiary hearing on the Government's present Motion to Convert Temporary Restraining Order to a Preliminary Injunction (#10) on June, 12, 2002. At Petty's request, the Court also allowed the parties an opportunity to submit additional briefing. Having considered the evidence and arguments of counsel, the Court GRANTS the Government's motion and converts the temporary restraining order entered in this cause to a preliminary injunction.

I.

As the details of the alleged illegal scheme forming the basis of the Government's motion are described in the Court's order of April 17, 2002, they will not be recited here. The Court takes judicial notice of the Government's evidence received in the prior proceeding and of its April 17th order. The Court also takes judicial notice of its orders in

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the related civil action *Sutherland, et al. v. Petty, et al.*, No. 2:02-CV-98 (E.D. Tex). The Court further finds the testimony of Special Agent James A. Hersley, presented by affidavit of May 20, 2002, credible.

II.

In response to the Government's motion and evidence, Petty presents a more artful rendition of the arguments this Court considered and rejected in its prior order. *See In re: Certain Assets of Allen Petty, Jr., a.k.a. Al Petty*, No 6:02-CV-148, at 8-10 (E.D. Tex. April 17, 2002)(order converting temporary restraining order to a preliminary injunction) However, Petty presents no credible evidence to controvert the Government's evidence and lead this Court to question its prior findings.

III.

Thus, based on the evidence presented and in conformity with 21 U.S.C. § 853(e), the Court FINDS a substantial probability the Government will prevail on the issue of forfeiture in this case, in that there is a substantial probability it will convince a jury beyond a reasonable doubt that Petty violated 18 U.S.C. §§ 1341, 1343, 1956, or 1957. The Court further FINDS that failure to enter a preliminary injunction in this case will result in the property being destroyed, removed from the jurisdiction of the Court, or otherwise made unavailable for forfeiture. Finally, the Court FINDS that the need to preserve the availability of the property involved through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

Accordingly, it is hereby ORDERED that the temporary restraining order entered in this matter on May 20, 2002, is converted into a preliminary injunction to be effective for a period of ninety days, unless such period is extended by the Court upon a showing of good cause or unless an indictment or information is filed in connection with this matter. It is further ORDERED that Allen Petty, Jr., a.k.a. Al Petty, his agents, employees, attorneys, family members and those persons in active concert or participation with them, and any other persons having a possessory interest in his property, be and are hereby ENJOINED AND RESTRAINED from selling, assigning, pledging, distributing, giving away, encumbering, or otherwise participating in the disposal of (by transfer of stock or otherwise) or removal from the jurisdiction of this Court, with the intent to conceal or hide, or to remove from any checking or savings account, all or part of their interest, direct or indirect, in the property listed below, real or personal, or chose in action, without prior approval of the Court upon notice to the United States and an opportunity for the United State to be heard, except as specified in this Order. The property subject to this Order includes, but it not limited to, the following:

1. Checking account # 635106982, in the name of Significant Lifestyles, LLC, at Bank One, Tyler, Texas;
2. Funds held in Evocash account # 66432, set up for X-Change Reciprocal Services, LLC.


Further, this order continues to apply with equal force and effect to restrain the transfer or disposition of the proceeds from said property.

It is further ORDERED that the funds contained in the bank accounts subject to this order draw interest or that the funds in said accounts be transferred into the registry of the Court where upon the Clerk of this Court is ordered to maintain the funds in federally insured, interest bearing accounts.

It is further ORDERED that pursuant to Fed. R. Civ. P. 65(c), the United States of America is not required to post bond or other security.

It is further ORDERED that a copy of this Order shall be recorded in the county land records where any of the above-described property is located.

ORDERED and SIGNED this 3rd day of July, 2002.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE